

§ 3201.8 Determining life cycle costs, environmental and health benefits, and performance.

(a) *Providing information on life cycle costs and environmental and health benefits.* Federal agencies may not require manufacturers or vendors of biobased products to provide to procuring agencies more data than would be required to be provided by other manufacturers or vendors offering products for sale to a procuring agency, other than data confirming the biobased contents of the products, as a condition of the purchase of biobased products from the manufacturer or vendor.

(b) *Performance test information.* In assessing performance of qualifying biobased products, USDA requires that procuring agencies rely on results of performance tests using applicable ASTM, ISO, Federal or military specifications, or other similarly authoritative industry test standards. Such testing must be conducted by an ASTM/ISO compliant laboratory. The procuring official will decide whether performance data must be brand-name specific in the case of products that are essentially of the same formulation.

(c) *Biodegradability information.* If biodegradability is claimed by the manufacturer of a qualifying biobased product as a characteristic of that product, USDA requires that, if requested by procuring agencies, these claims be verified using the appropriate, product-specific ASTM biodegradability standard(s). Such testing must be conducted by an ASTM/ISO-compliant laboratory. The procuring official will decide whether biodegradability data must be brand-name specific in the case of products that are essentially of the same formulation. ASTM biodegradability standards include:

(1) D5338 “Standard Test Method for Determining Aerobic Biodegradation of Plastic Materials Under Controlled Composting Conditions”;

(2) D5864 “Standard Test Method for Determining the Aerobic Aquatic Biodegradation of Lubricants or Their Components”;

(3) D6006 “Standard Guide for Assessing Biodegradability of Hydraulic Fluids”;

(4) D6400 “Standard Specification for Compostable Plastics” and the standards cited therein;

(5) D6139 “Standard Test Method for Determining the Aerobic Aquatic Biodegradation of Lubricants or Their Components Using the Gledhill Shake Flask”;

(6) D6868 “Standard Specification for Biodegradable Plastics Used as Coatings on Paper and Other Compostable Substrates”; and

(7) D7081 “Standard Specification for Non-Floating Biodegradable Plastics in the Marine Environment.”

[70 FR 1809, Jan. 11, 2005, as amended at 71 FR 13704, Mar. 16, 2006; 71 FR 42575, July 27, 2006; 76 FR 6322, Feb. 4, 2011]

§ 3201.9 Funding for testing.

(a) *USDA use of funds for biobased content and BEES testing.* USDA will use funds to support testing for biobased content and conduct of BEES testing for products within items USDA has selected to designate for preferred procurement through early regulatory action. USDA initially will focus on gathering the necessary test information on a sufficient number of products within an item (generic grouping of products) to support regulations to be promulgated to designate an item or items for preferred procurement under this program. USDA may accept cost sharing for such testing to the extent consistent with USDA product testing decisions. During this period USDA will not consider cost sharing in deciding what products to test. When USDA has concluded that a critical mass of items have been designated, USDA will exercise its discretion, in accordance with the competitive procedures outlined in paragraph (b) of this section, to allocate a portion of the available USDA testing funds to give priority to testing of products for which private sector firms provide cost sharing for the testing.

(b) *Competitive program for cost sharing for determining life cycle costs, environmental and health benefits, and performance.* (1) Subject to the availability of funds and paragraph (a) of this section, USDA will announce annually the solicitation of proposals for cost sharing for life cycle costs, environmental and